

COMMITTEE CONFERENCE - PMPD COMMENTS
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)	
)	
Application for Certification)	Docket No.
Pico Power Project by)	02-AFC-3
Silicon Valley Power)	
_____)	

CALIFORNIA ENERGY COMMISSION
HEARING ROOM B
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, SEPTEMBER 3, 2003
2:05 P.M.

Reported by:
Peter Petty
Contract No. 170-01-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

John L. Geesman, Presiding Member

HEARING OFFICER, ADVISORS PRESENT

Gary Fay, Hearing Officer

STAFF AND CONSULTANTS PRESENT

Dick Ratliff, Staff Counsel

Paul Richins, Licensing Program Manager

PUBLIC ADVISER

Roberta Mendonca

APPLICANT

Scott A. Galati, Attorney
Grattan & Galati

Leslie J. Ward, General Manager
Pico Power Project
Silicon Valley Power
City of Santa Clara

Andrea E. Grenier, Principal
Argonaut Consulting
Environmental Project Manager
Pico Power Project

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P R O C E E D I N G S

2:05 p.m.

HEARING OFFICER FAY: The Committee Conference will come to order. Good afternoon. This is a Committee conference in the Pico Power Plant case.

To my left is Commissioner John Geesman; and I'm Hearing Officer Gary Fay. And we are here to take any oral comments that supplement the written comments filed by the parties.

On August 27th the applicant, and I think a few days previous the staff, filed their comments on the Presiding Member's Proposed Decision. The Committee has looked the comments over and created an errata that I have sent to both of the attorneys representing parties here today.

And so I'd like to get their reaction to the errata; and also to discuss the matter of condition soil and water-6, which I believe there's been some supplemental language proposed by the staff to address a concern on that.

So, are there any preliminary matters before we turn to the applicant?

Ms. Mendonca, you're here, do you want

1 to --

2 MS. MENDONCA: Thank you. To the Siting
3 Committee assigned to this case I think the Public
4 Adviser can report that since our last status
5 report which was filed in May, my office has been
6 available for public participation but there has
7 been no contact with my office. And there has
8 been no one who has indicated they would like to
9 be here today nor submit any comments on today's
10 matter. Thank you.

11 HEARING OFFICER FAY: Thank you, Ms.
12 Mendonca. Okay, anything preliminary then? All
13 right, Mr. Galati.

14 MR. GALATI: Scott Galati on behalf of
15 Silicon Valley Power. To my left is the General
16 Manager of the project, Les Ward; and behind me is
17 Andrea Grenier, who has been the lead consultant
18 to spearhead this effort.

19 We have very much appreciated what the
20 Committee has done in turning around this PMPD and
21 getting it out. We believe that it represents the
22 evidence in the record.

23 We also have seen the errata and staff's
24 comments. And we agree with the errata and have
25 no further comments on the PMPD.

1 I'll wait to address soil and water-6,
2 but I would let you know that Mr. Ratliff and I
3 had a conversation today and he has also worked on
4 some language that we very much appreciate,
5 dealing with our concerns on soil and water-6.
6 And I believe that we have agreement there. And
7 I'd also like to just have the record reflect that
8 we appreciate very much his efforts and the
9 efforts of the staff to accommodate us with that
10 particular concern.

11 HEARING OFFICER FAY: Thank you. Mr.
12 Ratliff.

13 MR. RATLIFF: We have no comments on the
14 errata. It looked fine to us.

15 And I think, as Mr. Galati has said,
16 we've worked out what we think is language which
17 narrows the exemption from the condition for
18 pumping groundwater in soil and water-6. And we
19 think we've got an agreement on how that will be
20 handled. So we have no other comments than to say
21 that.

22 HEARING OFFICER FAY: Okay. Let's
23 shift, then, to the issue of soil and water-6.
24 That, as stated in the PMPD, limited the applicant
25 to using groundwater as a backup to the recycled

1 water for cooling the plant to a 45-day period
2 each year for that groundwater.

3 The applicant sought, and the Committee
4 put language in, that said if there was an act of
5 God or unforeseen circumstances beyond the
6 applicant's control they could continue beyond 45
7 days. Staff voiced concern in their comments.
8 And the Committee encouraged some sort of
9 compromised language to address both parties'
10 concerns.

11 And so staff has now proposed this
12 language dated September 3rd to amend soil and
13 water-6, and it would replace, basically replace
14 the condition and the verification.

15 And what this does is limit backup
16 groundwater pumping not to exceed 57 million
17 gallons or 45 days each year. And then in the
18 verification it says if the recycled water supply
19 is disrupted due to natural or unforeseen
20 circumstances the applicant can contact the CPM
21 and seek allowance to pump beyond 45 days.

22 And it does seem to me that this
23 addresses both parties' concerns. My only
24 question to both attorneys is should the language
25 of the condition, itself, indicate the opening of

1 an exception.

2 In other words, that last sentence
3 "shall not exceed 57 million gallons, nor shall it
4 exceed a period of more than 45 days, except as
5 indicated in the verification below" or something
6 like that. Because, as you know, the condition is
7 a lock. And only the Commission can change that.

8 So you could be in a situation where
9 someone's going to say, well, wait a minute, the
10 CPM doesn't have that authority. It's clearly
11 limited to 45 days.

12 So that's the only concern I had about
13 this language. Do you have any reaction, Mr.
14 Galati?

15 MR. GALATI: I think, since I've
16 appreciated staff working so closely, I'd like
17 them to opine first on this, whether or not there
18 is an opportunity to clarify that in the
19 condition.

20 MR. RATLIFF: Could we perhaps discuss
21 this a little bit between ourselves before we
22 answer?

23 HEARING OFFICER FAY: Well, okay, and
24 what we could do is, rather than take up hearing
25 time, if we could just have agreement on a

1 concept. If you disagree with my take on this, or
2 if you agree with it, offer to give me some
3 language in a day or two.

4 MR. RATLIFF: Certainly we would have no
5 objection to moving it into the condition, --

6 HEARING OFFICER FAY: Okay, --

7 MR. RATLIFF: -- and --

8 HEARING OFFICER FAY: -- I just think we
9 need some caveat in the language, itself, that
10 indicates that 45 days is not an absolute under
11 any circumstances. That there is this provision
12 allowed, and then kind of reference it so that the
13 language of the condition, itself, contains that
14 indication that there may be something more than
15 45 days under --

16 MR. RATLIFF: Yeah, that was a point we
17 hadn't really considered or discussed. But I
18 think we agree with you, though, that it might
19 more appropriately be placed in the condition,
20 itself.

21 HEARING OFFICER FAY: Okay, be a little
22 tighter, I think. Mr. Galati?

23 MR. GALATI: Yes, even if it --

24 HEARING OFFICER FAY: Can we leave that
25 to the staff to provide some language along those

1 lines? And we'll anticipate something like that
2 and the Committee will email it to you or the
3 staff will. And so nobody will be surprised on
4 the 10th.

5 But I think it just -- it doesn't leave
6 the project open to an absolute lock on 45 days if
7 the unlikely circumstances should occur, and you
8 need to pump beyond that.

9 MR. GALATI: Yeah, we appreciate that.
10 And I would offer, as I'm sitting here, for
11 staff's just using the words, unless approved by
12 the CPM, if that would do it. I don't think that
13 the entire process needs to be moved into the
14 condition, or what the criteria is. But if that,
15 that would be acceptable.

16 HEARING OFFICER FAY: Okay. Well,
17 there's a number of ways that can be done. But I
18 don't think we need to take time right now to nail
19 that down. But I think we all seem to agree on
20 the concept. And that's certainly one
21 possibility.

22 Is there anything else that you think
23 the Committee needs to pay attention to before
24 offering this to the Commission?

25 MR. GALATI: The only thing I would like

1 to add, the Committee doesn't often get feedback
2 on how things go for compliance. But I would just
3 like to let you know that the compliance staff and
4 the staff at the Commission is working very well
5 with our staff, and we are making extreme great
6 progress.

7 And your hard work in getting the PMPD
8 out, getting us our license on time is not going
9 to go to waste here. We're going to start
10 construction as soon as we can.

11 So, appreciate that, those efforts and
12 wanted to at least report that to you.

13 HEARING OFFICER FAY: Okay, thank you;
14 appreciate that.

15 Anything further, Mr. Ratliff?

16 MR. RATLIFF: No. I think we're ready
17 for the hearing.

18 HEARING OFFICER FAY: Okay, then what I
19 anticipate is that the errata that you're both
20 saying will be modified by the staff's proposed
21 language on soil and water-6, as further modified
22 by what we've talked about today. And that that
23 will be presented to the Commission in the form of
24 an amendment to the PMPD for their consideration.
25 And that's about it. Commissioner Geesman?

1 PRESIDING MEMBER GEESMAN: No, I don't
2 have anything.

3 HEARING OFFICER FAY: Okay. I think
4 that takes care of everything.

5 MR. GALATI: Thank you; we'll see you on
6 the 9th.

7 HEARING OFFICER FAY: All right, thank
8 you. We're adjourned.

9 (Off the record.)

10 MR. GALATI: Oh, yeah, you made a
11 comment about the 10th. It's actually the 9th.

12 HEARING OFFICER FAY: Oh, it's the 9th.
13 Okay.

14 PRESIDING MEMBER GEESMAN: Yeah, the
15 hearing is on the 9th.

16 HEARING OFFICER FAY: On the 9th.

17 PRESIDING MEMBER GEESMAN: I kind of
18 stumbled over that, myself. Thought, well, maybe
19 it was the day after the hearing --

20 HEARING OFFICER FAY: Yeah, there is
21 something on the 10th, but it's not your concern.

22 (Laughter.)

23 HEARING OFFICER FAY: All right. My
24 mistake. It is September 9th. We'll see you
25 then. We start at 10:00 a.m. in Hearing Room A.

1 MR. GALATI: Thank you.

2 HEARING OFFICER FAY: Thank you. We're
3 adjourned.

4 (Whereupon, at 2:15 p.m., the conference
5 was adjourned.)

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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Committee Conference; that it
was thereafter transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
conference, nor in any way interested in outcome
of said conference.

IN WITNESS WHEREOF, I have hereunto set
my hand this 6th day of September, 2003.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345